

1
2
3
4
5
6
7 **UNITED STATES DISTRICT COURT**
8 **WESTERN DISTRICT OF WASHINGTON**

9
10 UNITED STATES OF AMERICA,

11 Plaintiff,

Civil Action No. 2:18-cv-747

12 v.

13 **COMPLAINT**

14 BOBBY WOLFORD TRUCKING &
15 SALVAGE, INC., and
16 KARL FREDERICK KLOCK PACIFIC
17 BISON, LLC,

18 Defendants.

19 The United States of America (“United States”), through its undersigned attorneys, by the
20 authority of the Attorney General, and at the request of the Administrator of the United States
21 Environmental Protection Agency (“EPA”), alleges as follows:

22 **NATURE OF THE ACTION**

23 1. This is a civil action commenced under Clean Water Act (“CWA” or “the Act”)
24 Section 309(b) and (d), 33 U.S.C. § 1319(b) and (d). The United States seeks injunctive relief
25 and civil penalties against Defendants Bobby Wolford Trucking & Salvage, Inc. (“Wolford”) and
26 Karl Frederick Klock Pacific Bison, LLC (“KFKPB”) for violating CWA Section 301(a), 33
27 U.S.C. § 1311(a), by discharging dredged or fill material into waters of the United States
28 including approximately 2.9 acres of wetlands and 2,021 linear feet of streams on KFKPB’s

UNITED STATES’ COMPLAINT
Page 1

U.S. Department of Justice
Environmental Defense Section
P.O. Box 7611
Washington, D.C. 20044
(206) 639-5544

property located at 25231 Ben Howard Road, Snohomish County, Washington (specifically, Tax Parcel Nos. 27070300300500, 27071000100100, 27071000100300, 27071000200100, and 27071000100200) (the “Site”), without a permit issued under CWA Section 404, 33 U.S.C. §§ 1344.

2. In this action the United States seeks to require Wolford and KFKPB to: (1) restore and provide mitigation for injuries to the affected waters of the United States at their own expense and under the direction of EPA and/or the United States Army Corps of Engineers, and (2) pay civil penalties as provided in 33 U.S.C. § 1319(d).

JURISDICTION AND VENUE

3. This Court has jurisdiction over the subject matter of this action under CWA Section 309(b), 33 U.S.C. § 1319(b), and 28 U.S.C. §§ 1331, 1345, and 1355.

4. Venue is proper in the United States District Court for the Western District of Washington under CWA Section 309(b), 33 U.S.C. § 1319(b), and 28 U.S.C. § 1391(b) and (c), because the subject property is located in this District and the cause of action alleged herein arose in this District.

5. Notice of the commencement of this action has been provided to the State of Washington in accordance with CWA Section 309(b), 33 U.S.C. § 1319(b).

THE PARTIES

6. The Plaintiff is the United States of America. The United States Department of Justice is vested with the authority to bring this action under 28 U.S.C. §§ 516 and 519, and 33 U.S.C. § 1366.

7. Upon information and belief, Defendant KFKPB is a limited liability company registered in the state of Washington. It was incorporated on January 10, 2010, and is the successor in interest to Karl Frederick Klock Pacific Bison, LP, which was formed on June 9, 1994.

8. Upon information and belief, Defendant Wolford is a corporation registered in the state of Washington. It was incorporated on February 26, 1986.

1 9. Upon information and belief, Defendant KFKPB or its predecessor, Karl
2 Frederick Klock Pacific Bison, LP, was the owner of the Site at the time of the events that
3 constituted violations of the CWA.

4 10. Upon information and belief, at all times relevant to the Complaint, one or more
5 of the Defendants controlled the Site and/or controlled the activities that occurred on the Site.

6 **STATUTORY BACKGROUND**

7 11. The CWA's purpose is "to restore and maintain the chemical, physical, and
8 biological integrity of the Nation's waters." 33 U.S.C. § 1251(a).

9 12. CWA Section 301(a), 33 U.S.C. § 1311(a), prohibits the discharge of any
10 pollutant, including dredged or fill material, by any person from any point source to navigable
11 waters unless that discharge is authorized by a permit issued under CWA Section 402 or 404, 33
12 U.S.C. §§ 1342 or 1344.

13 13. CWA Section 404(a), 33 U.S.C. § 1344(a), authorizes the Secretary of the Army,
14 acting through the Chief of Engineers, to issue permits for the discharge of dredged or fill
15 material to navigable waters at specified disposal sites, after notice and opportunity for public
16 comment.

17 14. CWA Section 502(12), 33 U.S.C. § 1362(12), defines "discharge of a pollutant"
18 to include "any addition of any pollutant to navigable waters from any point source."

19 15. CWA Section 502(6), 33 U.S.C. § 1362(6), defines "pollutant" to include, inter
20 alia, dredged spoil, rock, sand, cellar dirt, and garbage.

21 16. CWA Section 502(7), 33 U.S.C. § 1362(7), defines "navigable waters" as "the
22 waters of the United States, including the territorial seas."

23 17. 33 C.F.R. § 328.3(a)(1), (2), (5) and (7), and 40 C.F.R. § 232.2, define "waters of
24 the United States" to include: (i) all waters which are currently used, were used in the past, or
25

1 may be susceptible to use in interstate or foreign commerce; (ii) all inter-state waters; (iii)
 2 tributaries to such waters; and (iv) wetlands adjacent to such waters or their tributaries.¹

3 18. Federal regulatory jurisdiction over a non-wetland “water of the United States”
 4 extends to the ordinary high water mark, defined as a “line on the shore established by
 5 fluctuations of water and indicated by physical characteristics” including a “natural line
 6 impressed on the bank, shelving, changes in the character of the soil, destruction of terrestrial
 7 vegetation, [or] the presence of litter and debris.” 33 C.F.R. §§ 328.3(e), 328.4(c).

8 19. 33 C.F.R. § 328.3(b) and 40 C.F.R. §§ 122.2 and 232.2 define “wetlands” as
 9 “those areas that are inundated or saturated by surface or ground water at a frequency and
 10 duration sufficient to support, and that under normal circumstances do support, a prevalence of
 11 vegetation typically adapted for life in saturated soil conditions.”

12 20. CWA Section 502(14), 33 U.S.C. § 1362(14), defines “point source” to include
 13 “any discernible, confined and discrete conveyance . . . from which pollutants are or may be
 14 discharged.”

15 21. CWA Section 502(5), 33 U.S.C. § 1362(5), defines “person” to include “an
 16 individual [or] corporation.”

17 22. CWA Section 309(b), 33 U.S.C. § 1319(b), authorizes the commencement of a
 18 civil action for appropriate relief, including a permanent or temporary injunction, against any
 19 person who violates CWA Section 301(a).

21
 22 ¹ After Defendants committed the violations alleged herein, EPA and the Department of the
 23 Army promulgated a new rule, which became effective on August 28, 2015. The new rule
 24 amended 33 C.F.R. § 328.3 and 40 C.F.R. § 232.2 and defines “waters of the United States” to
 25 include, *inter alia*: (i) all waters which are currently used, were used in the past, or may be
 26 susceptible to use in interstate or foreign commerce; (ii) all interstate waters; (iii) tributaries to
 27 waters described in (i) and (ii); and (iv) wetlands or other waters adjacent to the waters described
 28 in (i)-(iii). Implementation of the new rule has been temporarily stayed by the Sixth Circuit
 Court of Appeals. *In re: Environmental Protection Agency and Department of Defense Final
 Rule; “Clean Water Rule: Definition of Waters of the United States,”* 80 Fed. Reg. 37,054 (June
 29, 2015), 803 F.3d 804, 808 (6th Cir. 2015).

23. In an action brought under CWA Section 309(b), 33 U.S.C. § 1319(b), Section CWA Section 309(d), 33 U.S.C. § 1319(d), authorizes the district court to impose civil penalties against any person who violates CWA Section 301(a).

GENERAL ALLEGATIONS

24. The Site lies along the south bank of the main channel of the Skykomish River and contains an oxbow that is a part of the Skykomish River.

25. The Skykomish River is a traditional navigable water that is navigable-in-fact, and has been used, is used, or could be used in interstate or foreign commerce.

26. The bed and banks of the oxbow and wetlands situated therein lie below the ordinary high water mark of the Skykomish River.

27. The Site also contains wetlands adjacent to the Skykomish River oxbow, which abut and have a continuous surface connection to the River.

28. A channel on the southeastern part of the Site flows into the oxbow and is a tributary to the Snohomish River.

29. The bed and banks of the southeastern channel lie below the ordinary high water mark of the Skykomish River.

30. Wetlands on the Site adjacent to the southeastern channel also lie below the ordinary high water mark of the Skykomish River and abut and have a continuous surface connection to the Skykomish River.

31. The wetlands on the Site, either alone or in combination with similarly situated lands in the region, contribute to maintaining the chemical, physical, and biological integrity of the Skykomish River.

32. The wetlands, among other things, provide or provided flood control and/or flood storage, pollutant trapping and/or filtering functions, and nutrient transport. The wetlands also maintain or maintained the chemical composition of the water, natural discharge patterns, and water quality functions. All the wetland functions described in this Paragraph contribute or contributed to the aquatic and wildlife habitat of the Skykomish River.

1 33. The wetlands contribute or contributed water flow and associated chemical and
2 biological materials, including nitrogen and dissolved organic carbon, to the Skykomish River.

3 34. The wetlands provide or provided habitat for a diverse array of organisms that are
4 transported downstream to the Skykomish River, and are capable of moving throughout these
5 connected waters.

6 35. The Skykomish River, including the oxbow, and the wetlands described above are
7 “waters of the United States” within the meaning of the CWA and the regulations promulgated
8 thereunder that were in effect at the time of Defendants’ activities

9 36. From 2008 through 2013, Defendants cleared, filled, and graded approximately
10 2.4 acres of the north oxbow area.

11 37. In or around August 2010, Defendants filled another 0.138 acres by excavating
12 the southeastern channel and sidecasting dredged material into adjacent wetlands.

13 38. In addition to discharging fill material at that time, Defendants discharged trash
14 and waste material in approximately 0.043 acres of wetlands and graded, recontoured, and
15 excavated approximately 1,052 linear feet of stream and stream bank located near the center of
16 the oxbow.

17 39. Defendants placed additional fill material on the Site between March 2011 and
18 June 2012, including 0.19 acres of fill placed in the southeastern channel and adjacent wetlands
19 for purposes of building a road, 0.173 acres of fill placed in the eastern oxbow, and 969 linear
20 feet of dredge or fill material placed in the bed or on the bank of the eastern oxbow area.

21 40. All work was performed by heavy equipment operated by Eric Klock, a member
22 of KFKPB, and employees of Wolford.

23 41. Wolford charged other parties to dispose of their fill material at the Site, and
24 provided earth moving equipment and operators to KFKPB.

25 42. Wolford delivered 40,599 cubic yards of fill to the Site between 2008 and 2011:
26 15,628 cubic yards in 2008; 18,249 cubic yards in 2009; 6,499 cubic yards in 2010; and 233
27 cubic yards in 2011.

1 43. Eric Klock, acting on behalf of KFKPB, told Wolford drivers where to place the
2 fill material.

3 44. Eric Klock, acting on behalf of KFKPB, made the decision to clear and grade the
4 oxbow and wetlands on the Site, and oversaw and substantially controlled the design and
5 construction of the clearing, grading and filling.

6 **CLAIM FOR RELIEF:**

7 **UNAUTHORIZED DISCHARGES OF DREDGED OR FILL MATERIAL**

8 45. The United States repeats and realleges the allegations in Paragraphs 1 through
9 44.

10 46. Through the activities described in paragraphs 25 through 45, Wolford, KFKPB,
11 and/or persons acting on their behalf, at their direction, or with their consent and/or knowledge,
12 discharged, made the decision to discharge, and/or directed the discharge of dredged or fill
13 material into approximately 2.9 acres of wetlands and 2,021 linear feet of streams on the Site.

14 47. The dredged or fill material included, among other things, dirt, spoil, rock, sand,
15 and trash, all of which constitute “pollutants” as defined in CWA Section 502(6), 33 U.S.C. §
16 1362(6).

17 48. The mechanized land-clearing and earth-moving equipment that Wolford,
18 KFKPB, and/or persons acting on their behalf, at their direction, or with their consent and/or
19 knowledge, used, made the decision to use, and/or directed to be used to discharge the dredged
20 or fill material at the Site constitute “point sources” as defined in CWA Section 502(14), 33
21 U.S.C. § 1362(14).

22 49. Neither Wolford nor KFKPB obtained a permit from the Secretary of the Army,
23 acting through the Chief of Engineers, for the discharges of dredged or fill material at the Site, in
24 violation of CWA Sections 301(a) and 404, 33 U.S.C. §§ 1311(a), 1344.

25 50. The discharges of dredged or fill material at the Site violated and continue to
26 violate CWA Section 301(a), 33 U.S.C. § 1311(a).

27 51. Each day that the dredged or fill material remains in the streams and wetlands at
28 the Site constitutes a separate violation of CWA Section 301(a), 33 U.S.C. § 1311(a).

52. Under CWA Section 309(b) and (d), 33 U.S.C. §§ 1319(b) and (d), the Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701, and 40 C.F.R. § 19.4, Wolford and KFKPB are liable for a civil penalty of up to \$32,500 per day for each violation of CWA Section 301(a), 33 U.S.C. § 1311(a).

53. Unless this Court compels Defendants to restore the streams and wetlands to their pre-fill condition, Defendants are likely to allow dredged or fill material to remain in the streams and wetlands in violation of CWA Section 301, 33 U.S.C. § 1311.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, the United States of America, respectfully requests that this Court order the following relief:

I. Permanently enjoin Defendants from discharging dredged or fill material or other pollutants to any water of the United States except in compliance with a CWA permit;

II. Order Defendants to undertake measures to completely restore the waters of the United States at the Site to their pre-fill condition at Defendants' own expense and under the direction of EPA and/or the United States Army Corps of Engineers, and to provide mitigation for injuries to such waters;

III. Order Defendants to pay civil penalties, pursuant to CWA Section 309(d), 33 U.S.C. § 1319(d), per day for each violation of CWA Section 301(a);

IV. Award the United States costs and disbursements, including expert witness fees, incurred in this action; and

V. Grant such other relief as the Court may deem just and proper.

Respectfully submitted,

JEFFREY H. WOOD
Acting Assistant Attorney General
Environment and Natural Resources Division

/s/ Kent E. Hanson
KENT E. HANSON
Environmental Defense Section
United States Department of Justice
P.O. Box 7611

Washington, DC 20044
206-638-5544
Kent.Hanson@usdoj.gov

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

(b) County of Residence of First Listed Plaintiff _____
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

DEFENDANTS

County of Residence of First Listed Defendant _____
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☐ 2 U.S. Government Defendant
- ☐ 3 Federal Question
(U.S. Government Not a Party)
- ☐ 4 Diversity
(Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☐ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (specify) ☐ 6 Multidistrict Litigation - Transfer ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

Brief description of cause:

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
 United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. Origin.** Place an "X" in one of the seven boxes.
 Original Proceedings. (1) Cases which originate in the United States district courts.
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
 Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
 Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7. Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.

____ District of _____

Defendant(s)

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* _____
 was received by me on *(date)* _____.

☐ I personally served the summons on the individual at *(place)* _____
 _____ on *(date)* _____; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* _____
 _____, a person of suitable age and discretion who resides there,
 on *(date)* _____, and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* _____, who is
 designated by law to accept service of process on behalf of *(name of organization)* _____
 _____ on *(date)* _____; or

☐ I returned the summons unexecuted because _____; or

☐ Other *(specify)*: _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

_____ District of _____

Plaintiff(s)

v.

Defendant(s)

)
)
)
)
)
)
)
)
)
)
)

Civil Action No. _____

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)*

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* _____
 was received by me on *(date)* _____ .

☐ I personally served the summons on the individual at *(place)* _____
 _____ on *(date)* _____ ; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* _____
 _____, a person of suitable age and discretion who resides there,
 on *(date)* _____, and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* _____, who is
 designated by law to accept service of process on behalf of *(name of organization)* _____
 _____ on *(date)* _____ ; or

☐ I returned the summons unexecuted because _____ ; or

☐ Other *(specify)*: _____ .

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ .

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc: